

SENTENCING SIMULATION PROJECT (SSMP)
CORRECTIONS POPULATION MANAGEMENT COMMISSION

BILL ANALYSIS

SENATE BILL 1059: RELATING TO MANDATORY MINIMUM SENTENCES FOR PERSONS CONVICTED OF THEFT OF A MOTOR VEHICLE OR UNAUTHORIZED ENTRY OF A MOTOR VEHICLE

Bill Proposal: *“Unauthorized control of a propelled vehicle is a class C felony and shall carry a mandatory minimum sentence of imprisonment for three months. . . . Unauthorized entry into motor vehicle is a class C felony and shall carry a mandatory minimum penalty of imprisonment for three months.”*

Existing Law: Unauthorized control of a propelled vehicle and unauthorized entry into motor vehicle are both class C felonies with no mandatory minimum sentences.

Population: Individuals convicted under Hawaii Revised Statute 708-0836 (Unauthorized control of a propelled vehicle) and 708-0836.5 (Unauthorized entry into motor vehicle that are not sentenced to prison.

Net Yearly Correctional Population Impacts:

Table 1. Population Impacts	2003	2004	2005	2006	2007	2008	2009
Total felony prison population	+186	+371	+558	+582	+625	+678	+742
Parole Population under Supervision	0	0	0	+192	+389	+561	+578
Probation Population under Supervision	-192	-389	-593	-803	-1,020	-1,244	-1,301

Overall Correctional System Outcomes:

- 1) Increases the sentences to prison, resulting in increases in: overall prison population, direct sentenced felon prison admissions, prison releases to parole, parole population under supervision, and parole revocations returned to prison.
- 2) Decreases the sentences to probation, resulting in decreases in: probation population under supervision and probation revocations re-sentenced to prison.

The Sentencing Simulation Project produces an Annual Report that details projected baseline data. This simulation is compared to those projected data.

This report is viewable and downloadable on the internet at:

<http://www.hawaii.gov/psd/cpmc/>

Arrest Trends & Impact on Sentencing

The number of felons convicted of these statutes and placed on probation has increased over the past three years, from 148 placements in 2000 to 186 in 2002 (see Table 2a & 2b). Arrests for motor vehicle theft and larceny-theft (which unauthorized entry of a motor vehicle falls under) are projected to increase into the future, which is based on projected population trends. Current sentencing and conviction rates (FY 2002) are held as the baseline for the projections, at 12.6% and 2.0% respectively. Using these as a benchmarks, it is projected that sentences to probation for motor vehicle theft will increase slightly, to 115 in 2003 and to 130 by 2007; meanwhile, sentences to probation for unauthorized entry of a motor vehicle is expected to be 78 in 2003, increasing up to 87 in 2007.¹

Table 2a. Arrest & Sentencing	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
UCPV sentenced to probation	143	103	100	112	115	118	122	126	130	134	138
Arrests for UCPV	672	903	1,012	886	908	932	964	996	1,031	1,062	1,090
% of arrest to probation	21.3%	11.4%	9.9%	12.6%	12.6%	—	—	—	—	—	→

Table 2b. Arrest & Sentencing	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
UEMV sentenced to probation	62	45	68	74	77	79	82	84	87	89	91
Arrests for Larceny-Theft (e.g., UEMV)	4,056	3,642	3,439	3,792	3,877	3,966	4,087	4,209	4,343	4,459	4,564
% of arrest to probation	1.5%	1.3%	2.0%	2.0%	2.0%	—	—	—	—	—	→

More active law enforcement practices will likely increase the number of arrests and/or sentencing and conviction trends, which will in turn increase the number of those projected to be placed on felony probation (and will result in overall increases in prison population, prison admissions, parole population, etc.). Future law enforcement and prosecutorial practices are not captured in this simulation; projections are based on known past patterns and trends.

Comparison & Impact of Legislation: Corrections Populations Projections for S.B. 1059 Compared to Current Corrections Populations Projections^{2 & 3}

Sentencing & Conviction

Under this proposed change, sentences to prison will increase while sentences to felony probation will decrease. The number of direct court sentences to prison is projected to be about 23% higher than what was initially projected without this law, on an annual

¹ These figures take into account individuals sentenced to probation, and projections of UCPV and UEMV placements to probation are controlled for multiple and/or instances where convictions occurred for both types of offenses for the sentence. In this simulation, UCPV placements trump UEMV placements in projections and enumeration.

² Projections are based on law effective as of beginning of FY 2003.

³ Due to rounding, some totals may not equal the sum of all parts.

basis. Meanwhile, sentences to felony probation will be roughly 9% less annually than what was initially projected without this law in place. See below Table 3 for the projections.

TABLE 3. Sentencing & Conviction		2003	2004	2005	2006	2007	2008	2009
Sentence to Prison	SB 1059 proposal -- projected	1,013	1,039	1,075	1,110	1,150	1,184	1,214
	original projection	821	842	871	900	932	960	985
Sentences to felony probation	SB 1059 proposal -- projected	1,919	1,969	2,037	2,105	2,180	2,246	2,304
	original projection	2,111	2,166	2,240	2,315	2,398	2,469	2,533

Population Analyses & Impacts

Under this proposed change, the prison and probation populations will be immediately impacted (see Table 4). Parole populations will be impacted in roughly 3 years after the law takes effect. The total felony prison population is projected to be 12% higher than projections without this law by the third year of implementation (FY 2005). The probation supervision caseload will decrease by -4.6% in this timeframe when compared to the initial projections (i.e., without the law in place). Once the felons who are sentenced under this law serve prison time, they will be released to parole. Based on the current Hawaii Paroling Authority average length of minimum sentence, most of these prisoners would be released, on average 3 years out.⁴ Beginning in 2006, when the first cohort of felons under this law begin to be released, the parole population under supervision will begin to experience increases, and by 2008, three years out, will have increased by 14%.

TABLE 4. Corrections Population Impacts		2003	2004	2005	2006	2007	2008	2009
Total felony prison population	SB 1059 proposal -- projected	4,358	4,794	5,209	5,439	5,664	5,868	6,108
	original projection	4,172	4,423	4,652	4,857	5,039	5,190	5,366
	% difference	4.5%	8.4%	12.0%	12.0%	12.4%	13.1%	13.8%
Probation Population under Supervision	SB 1059 proposal -- projected	12,554	12,365	12,215	12,215	112,415	12,626	13,052
	original projection	12,746	12,755	12,808	13,018	13,435	13,869	14,353
	% difference	-1.5%	-3.1%	-4.6%	-6.2%	-7.6%	-9.0%	-9.1%
Parole Population under Supervision	SB 1059 proposal -- projected	2,871	3,038	3,255	3,681	4,127	4,566	4,870
	original projection	2,871	3,038	3,255	3,488	3,738	4,005	4,292
	% difference	0.0%	0.0%	0.0%	5.5%	10.4%	14.0%	13.5%

⁴ Based on 107 persons sentenced by HPA in FY 2001 for UCPV & UEMV. Average length of minimum sentence for those cases was 3.05 years and 2.92 years, respectively.

Prison Admissions & Releases Dynamics

As mentioned before, the prison and parole populations will increase as a result of this proposal taking effect, while the probation supervision caseload will decrease. The reasons for these increases and decreases are due to the displacement of sentences that would have been served on probation, in lieu of prison. Table 5 displays how these prison admissions break down and how there is the additive effect of parole in this equation.

The number of total admissions to prison is initially expected to be about 12% higher annually with this law than initial projections forecasted. In the first few years, this is nearly all accounted for in the number of felons sentenced directly from the court now going to prison. There will be a slight decrease in the number of probation revocations who are re-sentenced to prison since less probation placements will result because of the law. In raw numbers, this is estimated to be a difference of 11 admissions annually by year 2005. However, as these felons are paroled, given current parole failure rates, and then revoked, there will be increased admissions from within the corrections system.

TABLE 5. Prison Admissions & Source		2003	2004	2005	2006	2007	2008	2009
Total Prison Admissions	SB 1059 proposal -- projected	1,664	1,716	1,786	1,914	2,021	2,119	2,210
	original projection	1,478	1,531	1,600	1,675	1,757	1,838	1,919
	% difference	12.6%	12.1%	11.7%	14.3%	15.0%	15.3%	15.2%
Newly Sentenced Felons	SB 1059 proposal -- projected	1,013	1,039	1,075	1,110	1,150	1,184	1,214
	original projection	821	842	871	900	932	960	985
Probation Revocation, Re-Sentence to Prison	SB 1059 proposal -- projected	173	171	173	177	182	188	194
	original projection	180	184	190	198	207	216	225
Parole Revocation, Return to Prison	SB 1059 proposal -- projected	478	505	538	626	689	747	802
	original projection	478	505	538	576	618	662	709

The increased number of felons siphoned through prison entails that more will be released to parole. Table 6 outlines the increased number of parole releases if this law were to be enacted. Based on past parole averages for minimum sentence length, these felons would begin to be paroled in 2006. This shows roughly a 14% increase in the parole supervision population beginning in 2006.

TABLE 6. Prison Releases to Parole		2003	2004	2005	2006	2007	2008	2009
Releases to parole	SB 1059 proposal -- projected	1,066	,1143	1,224	1,504	1,603	1,710	1,824
	original projection	1,066	1,143	1,224	1,312	1,406	1,506	1,614
	% difference	0.0%	0.0%	0.0%	14.7%	14.0%	13.5%	13.0%

The difference between parole and probation is that revocation rates for parolees are markedly higher than that for probationers. This then means that there will be increased admissions of revokees in general since parole revocations occur at a higher rate than probation revocations, because of parole's increased population increased population.⁵ In raw numbers, this is estimated to be a difference of 55 admissions annually by year 2008, the year in which the majority of this first cohort would be expected to be released to parole. Therefore, admission rates begin to show further elevated increases in 2006.

⁵ Figures are based on failure rates benchmarked through studies performed through the Department of the Attorney General, and outlined in the SSMP Annual report.